

Remarks/Arguments

Claims 1-21 were pending in the application. Claims 3-7, 10, and 12-21 were withdrawn. Claims 3-8, 10, and 12-21 are now canceled, claims 1 and 9 are amended. and claims 22-28 have been added. Claim amendments and cancellations are made without cancelled without prejudice. The Applicant reserves the right to pursue canceled subject matter in a continuation, divisional, or continuation-in-part application.

As of this amendment, the claims under consideration are claims 1, 2, 9, 11, and 22-28.

As amended, claim 1 recites VEGFR-2. Support is found, for example, at paragraph 016. New claims 22-28 are drawn to particular intracellular and extracellular antagonists of VEGFR-2, and recite biological molecule antagonists of VEGFR-2 such as monoclonal antibodies and small molecule antagonists of VEGFR-2, such as ZD-6474. Support for the various antagonists is found, for example, at paragraphs 018-024, 033-037, and 045.

Rejection Under 35 U.S.C. § 112, second paragraph

Claim 8 and 9 have been rejected under 35 U.S.C. § 112, as being indefinite. In particular, Claim 8 has been rejected for lack of antecedent basis because it recites “the RTK,” whereas Claim 1 is asserted to refer to more than one RTK. Claim 9 has been rejected for reciting “bevacizumab,” which the Examiner asserts is not clearly related to Avastin™.

The Applicant respectfully submits that the rejection of Claim 8 as indefinite is moot in view of the instant claim amendments.

The rejection is respectfully traversed with respect to Claim 9. Bevacizumab and is Avastin™ designate the same monoclonal antibody, as indicated in the Specification (*e.g.*, at paragraph 0035) and in Rosen (*e.g.*, at page 41, right column, 2nd paragraph) which was cited by the Examiner. Bevacizumab is the generic name, whereas Avastin™ is the trade name. According to MPEP § 2173.05(u), a trademark should not be used as a claim limitation because it does not identify any particular material or product.

It is important to recognize that a trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. . . .

If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the 35 U.S.C. 112, second paragraph. *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product.

MPEP § 2173.05(u).

The claim term “bevacizumab,” on the other hand, identifies a particular that binds to VEGF, regardless of its source. Accordingly, the Applicant respectfully requests that the instant rejection be withdrawn.

Rejection Under 35 U.S.C. § 112, first paragraph, written description

Claims 1, 2, 8, 9, and 11 have been rejected under 35 U.S.C. § 112, first paragraph, as not in compliance with the written description requirement. The Examiner asserted that the claims encompassed broad genres of extracellular RTK antagonists and intracellular RTK antagonists that are not sufficiently disclosed or known in the art.

As amended, the pending claims specifically recite extracellular and intracellular antagonists of VEGFR-2. The Applicant respectfully submits that the rejection is moot in view of the instant claim amendments.

Further, the instant specification discusses biological molecules, such as peptides and antibodies (*e.g.*, at paragraphs 023-024) that are antagonists of VEGFR-2/KDR (*e.g.*, at paragraphs 033-035). The instant specification also discloses small molecule antagonists (*e.g.*, at paragraphs 36-37), including ZD-6474 (paragraph 045) which is a VEGFR-2 antagonist (*see, e.g.*, Wedge, S.R. et al., 2002, Cancer Res. 62:4645-55; Exhibit A). SU11248 (sunitinib) is another small molecule antagonist of VEGF-2 that was known in the art (*see, e.g.*, Mendel, D.B., 2003, Clin. Cancer Res. 9:327-37; Exhibit B).

Accordingly, in view of the instant amendment to claim 1, and support in the specification and knowledge in the art regarding VEGFR-2 antagonists, the Applicant urges that the rejection for lack of written description be withdrawn.

Rejection Under 35 U.S.C. § 112, first paragraph, enablement

Claims 1, 2, 8, 9, and 11 have also been rejected under 35 U.S.C. § 112, first paragraph, as not providing enablement for methods of inhibiting just any receptor tyrosine kinase by administering extracellular and intracellular antagonists of just any receptor

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tyrosine kinase. As amended, the pending claims specifically recite VEGFR-2. The Applicant respectfully submits that the rejection is moot in view of the instant claim amendments.

Rejection Under 35 U.S.C. § 102(e)

Claims 1, 2, 8, and 11 are rejected under 35 U.S.C. § 102(e) as being anticipated by Alitalo et al. (US 2002/0164667 A1), as evidenced by Fong et al (Cancer Research, 59:99-106, 1999). The Examiner maintains that Alitalo teaches a method of treating tumor growth or angiogenesis by inhibiting VEGFR by administering an extracellular VEGFR antagonist (*e.g.*, an antibody or peptide that inhibits VEGF-VEGFR binding) and intracellular VEGFR antagonist (*e.g.*, SU5416).

The Applicant respectfully submits that the rejection is moot in view of the instant claim amendments.

Rejection Under 35 U.S.C. § 103(a)

Claims 1, 2, 8, 9, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alitalo et al. and further in view of Rosen (Cancer Control, Mar-Apr 2002, 9(2) (supplement): 36-44). The Examiner maintains that Rosen teaches a method of treating tumor growth or angiogenesis by administering bevacizumab, and asserts that one of ordinary skill in the art would have been motivated to administer bevacizumab as the extracellular VEGFR antagonist, together with an intracellular VEGFR antagonist, because Alitalo teaches the use of a VEGFR antibody and bevacizumab is such an antibody.

The Applicant respectfully submits that the rejection is moot in view of the instant claim amendments.

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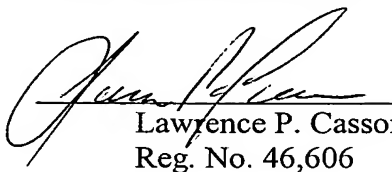
Conclusion

In view of the foregoing amendment, the application is now believed to be in condition for examination. Prompt consideration and allowance of the pending claims is respectfully requested.

Respectfully submitted,
KENYON & KENYON LLP

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By:


Lawrence P. Casson
Reg. No. 46,606

One Broadway
New York, NY 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288